

REMARKS

Applicants have studied the Office Action dated June 14, 2004 and have made amendments to the claims. It is submitted that the application, as amended, is in condition for allowance. By virtue of this amendment, claims 1-38 are pending. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

In the Office Action, the Examiner:

- (1-2) rejected claims 1-38 under the judicially created doctrine of obviousness-type double patenting;
- (3-19) rejected claims 1-7, 10-13, 16-19, 22-25, 28-31, and 34-36 under 35 U.S.C. §103(a) as being unpatentable over Beddus et al. (US 6,654,457) in view of Sassin et al (US 6,449,260); and
- (20-27) rejected claims 8, 9, 14, 15, 20, 21, 26, 27, 32, 33, 37, and 38 under 35 U.S.C. §103(a) as being unpatentable over Beddus et al. (US 6,654,457) in view of Sassin et al (US 6,449,260) and further in view of Strickland et al (US 5,956,024).

Overview of Current Invention

The present invention solves the problem in caller center applications such as directory assistance systems (DAS) networks where telephony functions must be coordinated with agent (e.g. a directory assistance operator or help center operator) availability functions. Unlike the prior art solutions that use a switch and a PSTN phone to communicate information to an Automated Call Director (ACD) and telephony switches (e.g. PBX), the current invention eliminates the need of dedicated voice switching through use of a Virtual ACD which remains compatible with the H.323 protocol while allowing integration of VoIP into a directory assistance system (DAS) by using JavaPhones. The use of JavaPhones allows phone calls from a computer or telephone to IP addresses or telephones, without the limitation of sending only text, graphics, or other files. It provides voice-quality conversations over Intranets, PSTN gateways, the Internet, or a PBX. The JavaPhone supports connection from a regular phone device to the standard serial port (using ShelCad Hi-Phone device). This device enables

private and natural talking on a regular phone. All the regular phone operations (*dial, hang-up, flash, etc.*) can be done from the regular phone device and are reflected in the GUI. The JavaPhone is H.323-compliant, and an IP-based phone. It meets industry standards, including RTP streaming, H.323 signaling, G.711, G.723, and GSM CODECs, and it even interoperates with Microsoft's® NetMeeting and H.323 PSTN Gateway. For more information on JavaPhone also called "Phone for Java" see online URL www.alphaworks.ibm.com/tech/phone4java.

The present invention through use of a special application programming interface to relay agent information to the Virtual ACD agent permits backward compatibility with H.323 signaling along with the ability to relay directory assistance operated status and provides screen-based interface to the agent for alerting and agent availability. The Call Director of the present invention integrates the Virtual ACD and a Voice Response Unit (VRU) and Virtual Automatic Call Distributor (VACD) to have a programmable interface with a common script so that the complete call process in the call center including audio and control can be executed as a single process.

The present invention provides the integration of a JavaPhone in an Intelligent Workstation Platform (IWSP) for a call center environment e.g. directory assistance. The present invention permits backward compatibility with H.323 signaling between the JavaPhone and the IWSP and a call director without the use of a Call Processing Gateway (CPG). A call processing switch is used to route telephony and all the call control messages (call arrival, disconnect, etc) are sent through a JavaPhone API. In order to more particularly point out this feature of call control messages sent through the JavaPhone which independent of an interface between the IWSP and the CPG, and the feature of the PlusTcp and the JavaPhone interfaces being implemented within a single application programming interface (API) so that each of the JavaPhone interface and the PlusTapi interface are usable under a single program process, the following language has been added to the independent claims, i.e., claims 1, 28, and 34 as follows:

- Claim 1

said PlusTapi means enumerates commands and data items to the IWSP to allow a Directory Assistance (DA) operator to communicate with said JavaPhone means and perform related audio and call control operations including all switch related messaging, wherein said PlusTapi means is independent of an interface between the ISWP and the CPG, and the PlusTapi means and the PlusTapi means are implemented within a single application programming interface (API) so that each of the JavaPhone means and the PlusTapi means are usable under a single program process;

- Claims 28 and 34

said PlusTapi means is independent of an interface between the programmable agent workstation and the CPG, and the PlusTapi means and the PlusTapi means are implemented within a single application programming interface (API) so that each of the JavaPhone means and the PlusTapi means are usable under a single program process.

Support for this amendment language is found in the specification of the present invention as originally filed at pages 15, line 9-13, and page 28 and 16-18 along with FIGs. 3 and 4. No new matter has been added.

(1-2) Double-Patenting Rejection of the Claims

As noted above, the Examiner rejected claims 1-38 under the judicially created doctrine of obviousness type double-patenting. The Examiner indicated in the Office Action that a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. The Applicants are filing a terminal disclaimer herewith (see attached paper). In view of the filing of the terminal disclaimer herewith, the Applicants believe that the Examiner's rejection has been overcome. Therefore, the Examiner's rejection should be withdrawn.

(3-19) Rejection under 35 U.S.C. §103(a) under Beddus and Sassin

As noted above, the Examiner rejected claims 1-7, 10-13, 16-19, 22-25, 28-31, and 34-36 under 35 U.S.C. §103(a) as being unpatentable over Beddus et al. (US 6,654,457) in view of Sassin et al (US 6,449,260). Independent claims 1, 28, and 34 have been amended to distinguish over Beddus taken alone and/or in view of Sassin. To begin, as the Examiner correctly states on page 5 of the Office Action, Beddus is silent on "said *PlusTapi enumerates commands and data items to the IWSP to allow a Directory Assistance (DA) operator to communicate with said JavaPhone means and perform related audio and call control operations including all switch related messaging*" and goes on to combine Beddus with Sassin.¹ However, careful reading of Sassin at col. 4, lines 25-33, teaches the PlusTapi means is dependent on an interface between the agent terminals 58 and CTI gateway 54. In contrast, the independent claims 1, 28, and 34 recite "wherein said PlusTapi means is independent of an interface between the ISWP and the CPG." Accordingly, the independent claims 1, 28, and 34 are amended to distinguish over Beddus taken alone and/or in view of Sassin for at least this reason.

Moreover, the Federal Circuit has consistently held that when a §103 rejection is based upon a modification of a reference that destroys the intent, purpose or function of the invention disclosed in the reference, such a proposed modification is not proper and the *prima facie* case of obviousness can not be properly made. See *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Here the intent, purpose and function of Beddus taken alone or in view of Sassin is the use of PlusTapi means dependent on an interface between the agent terminals 58 and CTI gateway 54. In contrast, the intent and purpose of the present invention is "wherein said PlusTapi means is independent of an interface between the ISWP and the CPG." The present invention is independent of this proprietary interface between the JavaPhone and CPG as required by Sassin. This combination, as suggested by the Examiner, destroys the intent and purpose of Beddus taken alone and/or in view of Sassin. Accordingly, the independent claims 1, 28, and 34 are amended to distinguish over Beddus taken alone and/or in view of Sassin for

¹ Applicants make no statement whether such combination is even proper.

this reason as well.

Continuing further, Beddus taken alone and/or in view of Sassin is silent on "and the PlusTcp means and the PlusTapi means are implemented within a single application programming interface (API) so that each of the JavaPhone means and the PlusTapi means are usable under a single program process." Stated differently, Beddus and/or Sassin do not teach a common script to programmatically integrate the functionality of each of the JavaPhone interface and the PlusTapi to control the routing and queuing of both audio and call control operations including switch related messaging for program execution in a single program or process. Rather, the functionality of the JavaPhone and PlusTapi are separate, each with their own distinct interfaces, operating systems and interface requirements. Accordingly, the independent claims 1, 28, and 34 are amended to distinguish over Beddus taken alone and/or in view of Sassin for at least this reason as well.

Still further, when there is no suggestion or teaching in the prior art for providing targeted advertising to a consumer based on the consumer's location and profile the suggestion can not come from the Applicant's own specification. The Federal Circuit has repeatedly warned against using the Applicant's disclosure as a blueprint to reconstruct the claimed invention out of isolated teachings of the prior art. See MPEP §2143 and Grain Processing Corp. v. American Maize-Products, 840 F.2d 902, 907, 5 USPQ2d 1788 1792 (Fed. Cir. 1988) and In re Fitch, 972 F.2d 160, 12 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). Beddus and Sassin are silent on "said PlusTapi means is independent of an interface between the programmable agent workstation and the CPG, and the PlusTcp means and the PlusTapi means are implemented within a single application programming interface (API) so that each of the JavaPhone means and the PlusTapi means are usable under a single program process."

Accordingly, independent claims 1, 28, and 34 of the present invention distinguish over Beddus taken alone and/or in view of Sassin for at least these reasons as well.

Independent claims 1, 28, and 34 have been amended to distinguish over Beddus

taken alone and/or in view of Sassin. Claims 2-7, 10-13, 16-19, 22-25, 29-31, and 35-36 depend from independent claims 1, 28, and 34. Since dependent claims contain all the limitations of the independent claims, claims 2-27, and 29-33, and 35-38 distinguish over Beddus taken alone and/or in view of Sassin as well. The Applicants respectfully submit that the Examiner's rejection has been overcome.

(20-27) Rejection under 35 U.S.C. §103(a) under Beddus, Sassin and Strickland

As noted above, the Examiner rejected claims (20-27) rejected claims 8, 9, 14, 15, 20, 21, 26, 27, 32, 33, 37, and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Beddus et al. (US 6,654,457) in view of Sassin et al (US 6,449,260) and in further view of Strickland et al (US 5,956,024). As noted above, in the section entitled "Rejection under 35 U.S.C. §103(a) under Beddus and Sassin", both Beddus and Sassin are silent on "said PlusTapi means is independent of an interface between the programmable agent workstation and the CPG, and the PlusTcp means and the PlusTapi means are implemented within a single application programming interface (API) so that each of the JavaPhone means and the PlusTapi means are usable under a single program process." The Examiner correctly states on page 8 of the Office Action that Beddus and Sassin are silent on graphical user interface that utilized Microsoft Windows operating environment and an IBM AI operating system and goes on to combine Beddus with Sassin and Strickland.² However, Strickland is silent on "said PlusTapi means is independent of an interface between the programmable agent workstation and the CPG, and the PlusTcp means and the PlusTapi means are implemented within a single application programming interface (API) so that each of the JavaPhone means and the PlusTapi means are usable under a single program process." Accordingly, independent claims 1, 28, and 34 of the present invention distinguish over Beddus taken alone and/or in view of Sassin and/or in view of Strickland for at least these reasons as well.

Independent claims 1, 28, and 34 have been amended to distinguish over Beddus

² Applicants make no statement whether such combination is even proper.

taken alone and/or in view of Sassin and/or Strickland. Claims 8, 9, 14, 15, 20, 21, 26, 27, 32, 33, 37, and 38 depend from independent claims 1, 28, and 34. Since dependent claims contain all the limitations of the independent claims, claims 8, 9, 14, 15, 20, 21, 26, 27, 32, 33, 37, and 38 distinguish over Beddus taken alone and/or in view of Sassin and/or in view of Strickland as well. The Applicants respectfully submit that the Examiner's rejection has been overcome.

CONCLUSION

The remaining cited references have been reviewed and are not believed to affect the patentability of the claims as amended.

In this Response, Applicants have amended certain claims. In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE CALL the undersigned if that would expedite the prosecution of this application.

Respectfully submitted,

Date: November 15, 2004

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BOC9-1999-0054-US1

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